HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE G.BHAVANI PRASAD

WRIT PETITION No. 2817 of 2006

Between:

M/s Mahadev Plastics,

Medak Road, Siddipet,

Medak District. …Petitioner

AND

The Commercial Tax Officer,

Siddipet, Medak District. …Respondent

Counsel for the petitioner: Smt Anjali Agarwal for

Shri B.Srinivas

Counsel for the Respondent: Shri K.Raji Reddy, Special

Standing counsel for

Commercial Taxes.

Dated: February 21, 2006

ORDER:

Per G.S.Singhvi, C.J.

In this petition, the petitioner has prayed for issuance of Mandamus to the respondent to refund the amount of excess tax paid by it during the assessment year 2004-25.

Although Smt Anjali Agarwal appearing for
Sri B.Srinivas, Advocate for the petitioner makes a request for adjournment, having regard to the nature of prayer made in the writ petition, we do not consider it expedient to accept her request.

The petitioner has averred that by an order dated October 24, 2005, the respondent finalised the assessment for the year 2004-05 and concluded that a sum of Rs.41,397/- had been deposited in excess of the liability. It has further averred that even though representations dated December 7, 2005 and January 19, 2006 have been made for refund of excess amount, the concerned authority has not taken any action.

Learned Government Pleader says that the order passed by the respondent can be reviewed by the revisional authority within a period of four years and therefore, petitioner cannot claim refund of the alleged excess amount paid during the assessment year 2004-05.

In our opinion, it is not necessary to decide whether or not, the revisional authority can *suo motu* exercise the power of review within a period of four years and whether the present one is a fit case for exercise of that power, but we have no hesitation to hold that the concerned authority is duty bound to advert to the request made by the petitioner and decide the same.

In view of the above, the writ petition is disposed of with a direction that within two months from the date of receipt of certified copy of this order together with copy of the writ petition, the competent authority shall decide the petitioner's claim for refund of the excess amount of tax paid during the assessment year 2004-05. If the concerned authority comes to the conclusion that the petitioner is not entitled to refund, then it shall communicate a reasoned order to it at the end of two months period.

G.S.SINGHVI, C.J.

February 21, 2006

G.BHAVANI PRASAD, J.

GRR/AMS